

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

SNYDER’S-LANCE, INC. and
PRINCETON VANGUARD, LLC,

Plaintiffs,

v.

FRITO-LAY NORTH AMERICA,
INC.,

Defendant.

Case No. 3:17-CV-00652

DECLARATION OF JOHN O’DONNELL

I, John O’Donnell, declare as follows:

1. I am over the age of 18 and competent to testify. I have personal knowledge of the matters stated in this declaration and would testify truthfully to them if called upon to do so.

2. In November 2010, I submitted a declaration in connection with proceedings before the Trademark Trial and Appeal Board. This declaration updates the information I provided at that time.

3. I am President of JP Food Sales LLC. I have extensive experience in the food brokerage business, including in deli snack foods. JP Food serves approximately 750 retail outlets in Eastern Pennsylvania, Maryland, New Jersey, and Delaware. The company sells to a larger number of retailers, including major supermarkets, smaller delis, and convenience stores. JP Food primarily sells perishables in the deli, meat, dairy, and produce section of those stores.

4. JP Food and Snyder’s-Lance have been working together since the launch of the Pretzel Crisps product in 2004. In my 2010 declaration, I stated that JP Food had distributed

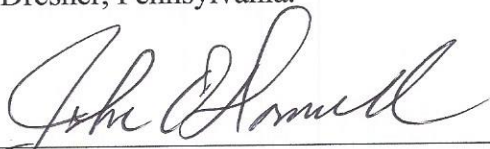
approximately \$2.5 million worth of Pretzel Crisps at retail between 2004 and 2012. Since 2012, JP Food has distributed an additional \$71.5 million worth of Pretzel Crisps at retail. JP Food generally sells about \$14.3 million a year worth of Pretzel Crisps at retail.

5. As was the case in 2010, JP Food's retail customers continue to specifically request Snyder's-Lance Pretzel Crisps using the brand name "Pretzel Crisps," and do not use "pretzel crisps" as a generic term for a category of products. I am not aware of retail customers that use the term "pretzel crisps" to identify products other than Snyder's-Lance's pretzel cracker products.

6. It also is clear that consumers ask for Pretzel Crisps by name. JP Food's retail sales force spends a lot of time with deli managers at supermarkets trying to collect information about how certain products are selling. Those supermarket employees have indicated that consumers seek out Pretzel Crisps and use the name to refer exclusively to Snyder's-Lance's pretzel cracker products.

I declare under the penalty of perjury, that the foregoing is true and correct.

Executed on this 23rd day of October, 2018, in Dresher, Pennsylvania.



John O'Donnell
President
JP Food Sales LLC

CERTIFICATE OF SERVICE

I do certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record or interested parties via the CM/ECF system.

This 29th day of October, 2018.

ELLIS & WINTERS LLP

/s/ Jonathan D. Sasser

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and Princeton Vanguard, LLC*

*admitted *pro hac vice*